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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

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ARIZONA CORPORATION COMMISSION  
Arizona Corporation Commission DOCKET CONTROL

DOCKETED

AUG 20 2012

DOCKET NO. W-02015A-11-0416

In the matter of:

ALBERT L. SMITH,

Complainant,

v.

BEAVER VALLEY WATER COMPANY,

Respondent.

DOCKETED BY [Signature]

PROCEDURAL ORDER

BY THE COMMISSION:

On November 18, 2011, Mr. Albert L. Smith ("Complainant") filed with the Arizona Corporation Commission ("Commission") a Complaint against Beaver Valley Water Company ("BVW" or "Company") with respect to a billing dispute involving Complainant's water bill for his residence in Payson, Arizona.

On December 19, 2011, BVW filed an Answer to the Complaint filed by Mr. Smith.

On December 22, 2011, by Procedural Order, a pre-hearing conference was scheduled on January 18, 2012.

On January 18, 2012, at the pre-hearing conference, Complainant appeared on his own behalf. Mr. Michael Davoren appeared on behalf of BVW, which he owns. Although the parties conducted settlement talks, they were unable to reach a resolution of the Complaint herein. At the conclusion of the pre-hearing conference the Complainant, Mr. Smith, was directed to file by February 8, 2012, an Amended Complaint to simplify the issues. The Company was directed to file its Answer/Response by February 21, 2012.

On January 31, 2012, Mr. Smith filed his Amended Complaint with the Commission, but he failed to serve the Company with a copy so that it could respond.

On February 17, 2012, Mr. Davoren filed a letter in the docket and stated that he had not

1 received a copy of the Amended Complaint from Mr. Smith and requested that the proceeding be  
2 dismissed.

3 On February 21, 2012, by Procedural Order, Mr. Smith was ordered to mail a copy of the  
4 Amended Complaint by February 29, 2012, to Mr. Davoren and file proof of mailing the Amended  
5 Complaint by certified U.S. mail return receipt requested in the docket. BVW was ordered to file,  
6 within fourteen days of the receipt of the Amended Complaint, BVW's Answer/Response after which  
7 a hearing would be scheduled.

8 On February 22, 2012, Mr. Smith filed proof of mailing the Amended Complaint.

9 On March 2, 2012, BVW filed its Answer/Response with the Commission.

10 On March 14, 2012, by Procedural Order, a hearing was scheduled on May 17, 2012.

11 On May 17, 2012, the Complainant appeared at the hearing. Mr. Davoren failed to appear,  
12 but earlier that week had contacted an administrative assistant in the Hearing Division to request a  
13 continuance because he was out of state. Although he had been directed to file his request in writing  
14 by faxing it to the Hearing Division, he did not do so. Despite objections by the Complainant, it was  
15 determined that the proceeding should be continued.

16 On May 18, 2012, by Procedural Order, the proceeding was continued to June 14, 2012.

17 On June 14, 2012, a full public hearing was convened before a duly authorized Administrative  
18 Law Judge of the Commission at its offices in Phoenix, Arizona. Complainant appeared on his own  
19 behalf and Mr. Michael Davoren who is the owner of BVW appeared on behalf of the Company. At  
20 the conclusion of the proceeding, the matter was taken under advisement pending submission of a  
21 recommended Opinion and Order to the Commission.

22 On July 2, 2012, the Complainant filed a letter and attached affidavit with the Commission.  
23 There is no indication that a copy of this filing was sent to the Company.

24 On July 6, 2012, by Procedural Order, a complete copy of the Complainant's letter and  
25 affidavit filed on July 2, 2012, and marked Exhibit "A" was mailed to Respondent. BVW was  
26 ordered to file a response by July 27, 2012

27 On July 30, 2012, the Company filed a response to Complainant's letter filed on July 2, 2012.

28 On August 1, 2012, the Complainant filed another letter in reply to the Company's response.

1 Again, there is no indication that a copy of this letter was sent to the Company.

2 Accordingly, attached to this Procedural Order is a complete copy of the Complainant's letter  
3 filed on August 1, 2012, and marked Exhibit "A". BVW should file a response after which further  
4 administrative action will be determined, if required.

5 IT IS THEREFORE ORDERED that **Beaver Valley Water shall file a response** to Exhibit  
6 "A" no later than **September 11, 2012**.

7 IT IS FURTHER ORDERED that **the parties are hereby directed to send a copy of any**  
8 **filing made with the Commission to the opposing party** at their respective addresses on the service  
9 list, and file proof of mailing.

10 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
11 Communications) is in effect and shall remain in effect until the Commission's Decision in this  
12 matter is final and non-appealable.

13 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
14 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission  
15 *pro hac vice*.

16 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance  
17 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
18 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances  
19 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
20 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
21 Administrative Law Judge or the Commission.

22 ...

23 ...

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1 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,  
2 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by  
3 ruling at hearing.

4 DATED this 20<sup>th</sup> day of August, 2012.

5  
6  
7  
8   
9 MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

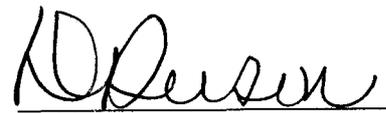
10  
11 Copies of the foregoing mailed/delivered  
this 20<sup>th</sup> day of August, 2012, to:

12 Albert L. Smith  
13 2613 North McAllister Avenue  
Tempe, AZ 85281-7919

14 Michael Davoren  
15 BEAVER VALLEY WATER CO., INC.  
16 P.O. Box 421  
Payson, AZ 85547-0421

17 Janice Alward, Chief Counsel  
18 Legal Division  
ARIZONA CORPORATION COMMISSION  
19 1200 West Washington Street  
Phoenix, AZ 85007

20 Steven M. Olea, Director  
21 Utilities Division  
ARIZONA CORPORATION COMMISSION  
22 1200 West Washington Street  
Phoenix, AZ 85007

23  
24 By:   
25 Debbi Person  
Assistant to Marc E. Stern

26  
27  
28

## EXHIBIT A

TO: Arizona Corp. Commission  
 Attn: Judge Stern

HEARING

docket # W-02015A-11-0416.

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Judge Stern, I would request that you and the ACC do exactly as Beaver Valley Water Co. suggests in their last letter dated 7/27/12. In this letter Mr. Davoren states "The Todd Plues letter is absolutely correct" He further states in the letter that he requests the ACC find in my favor. As you surely noticed as in all his letters he spends most of his time stating, NOT facts but rather running down the witnesses and belittling all the staff at the ACC. He has done this from the start! Just the fact that he claims to be wagering on the out come shows that he has little or NO regard for the work or time put into this case. His claim that a meter was changed is a LIE.! No such Meter change or conversation between Mr. Davoren and myself ever took place. The original claim wasn't about how much water was used! It was that Beaver Valley Water co. DID NOT take a beginning reading when my service was turned on in 2011, instead they used a reading out of the archives from 2004. This was found to be true during the ACC investigation from his own testimony. I on the other hand, I did take a beginning reading and with the testimony of a third party (Mr. Todd Plues notarized letter) That reading taken by me would have been Mr. Todd Pules ending reading from 2006 and my beginning reading in 2011. Mr Davoren state's " The Todd Plues letter is absolutely correct". Mr. Todd Pules state's all bill's were "PAID IN FULL" .. Beaver Valley Water Co's. problems with Mr. Plues have no bearing on the fact that NO BEGINNING reading was taken by BVWC at the time my new service was turned on!

At this time I would ask that Judge Stern and the members of the ACC honor Beaver Valley' Water Co's request to find in my favor. This is agreeable with both parties involved. I feel that as stated in Exhibit C-2 the ACC letter dated Oct. 27, 2011 where Mr. Davoren requests that I only be responsible for Sept & Oct's (2011) bills in addition to all future bills is fair, All of those bills have in fact been paid in full, so the billing records of Beaver Valley Water Co. should show NO PAST DUE, and only reflect current months balance. Honoring both parties request to rule in my favor will save both valueable time and money for the commission , and parties involved.

Thank You

Albert L Smith

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AUG 01 2012

ARIZONA CORPORATION COMMISSION  
 HEARING DIVISION